



# STATE OF INDIANA

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December 12, 2011

P. Gregory Yeary  
DOC 169399  
1946 W. U.S. 40  
Greencastle, Indiana 46135

*Re: Informal Inquiry 11-INF-72; Copy fees*

Dear Mr. Yeary:

This is in response to your informal inquiry regarding allowable copy fees that may be charged by a public agency pursuant to the Access to Public Records Act ("APRA"). Pursuant to Ind. Code § 5-14-4-10(5), I issue the following informal opinion in response to your inquiry. My opinion is based on applicable provisions of the APRA, I.C. § 5-14-3-1 *et seq.*

## BACKGROUND

You have submitted the following two inquiries regarding what fees may be charged by a public agency in providing records pursuant to the APRA:

- (a) Whether a clerk of court may quote a fee of \$1.75 per page;
- (b) Would the following fee schedule provided by a clerk of court comply with the requirements of the APRA:

1 to 4 copies per day - no charge

5 copies - \$1.00

Each copy beyond 5 would be an additional \$0.25 per page

## ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." See I.C. § 5-14-3-1. Accordingly, any person has the right to inspect and copy a public agency's records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. See I.C. § 5-14-3-3(a).

The APRA permits a public agency to charge a fee for copying a record, but sets certain limits on the amount of the copying fee depending upon the type of public agency. *See* I.C. § 5-14-3-8. For public agencies that are not state agencies, the fee for copying documents may not exceed the greater of ten cents (\$0.10) per page for copies that are not color copies or twenty-five cents (\$0.25) for color copies; or the actual cost of to the agency of copying the document. *See* I.C. § 5-14-3-8(d). However, the APRA also provides that notwithstanding other provisions within section 8 of the APRA, a public agency shall collect any certification, copying, facsimile machine transmission, or search fee that is specified by statute or is ordered by a court. *See* I.C. § 5-14-3-8(f). Thus, where a specific statute other than the APRA provides a public agency with the authority to charge a fee that exceeds the “actual cost,” the public agency may charge the statutory fee without violating the APRA. Pursuant to I.C. § 33-37-5-1, a court clerk shall collect a fee of one dollar (\$1) per page for legal size or letter size pages, including a page only partially covered with writing. The fee collected by the clerk may not exceed one dollar (\$1) per page for the actual copy. *See* I.C. § 33-37-5-1(c). In response to your first inquiry, a clerk of court would not be able to quote a fee of \$1.75 per copy. Please bear in mind this is only in reference to the actual copy of the record; the clerk can charge additional fees for record certification pursuant to I.C. § 33-37-5-3.

In response to your second inquiry, the clerk would provide free copies up to four pages per day. If one were to request five copies, the total charge would be one dollar (\$1), and each copy beyond would be an additional \$0.25 per page. As noted above, a county clerk may charge up to one dollar (\$1) per page for legal size or letter size pages. *See* I.C. § 33-37-5-1. In the scenario you have presented, the maximum cost per page would be \$0.25. As such, it is my opinion that the Clerk would not be acting contrary to the APRA in charging fees under the above described scenario.

If I can be of additional assistance, please do not hesitate to contact me.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Joseph B. Hoage  
Public Access Counselor